



CITY OF WOODLAND PARK

BOARD OF ADJUSTMENT Special Meeting

**AGENDA: 6:30 PM, Monday November 1, 2021
City Hall Council Chambers, 220 W. South Ave.
Woodland Park, Colorado**

This is a hybrid Zoom and in-person meeting. To Zoom - link from the City calendar at the bottom of the front page of the City website (www.city-woodlandpark.org). Public input is important to the Board. Written comments are encouraged and should be submitted to the Secretary in advance of the meeting. Individuals wishing to be heard during the Public Hearing are encouraged to be prepared. These will generally be limited to five (5) minutes per individual, unless otherwise approved by the Chairman. This will facilitate everyone having the opportunity to be heard. Public comments are expected to be constructive. Please sign in to speak on a particular agenda item. Call 719-687-5209 for more information.

- 1. ORDER & ROLL CALL**
- 2. MINUTES:** September 20, 2021
- 3. REQUESTS / PUBLIC HEARINGS**
 - A. Move to Approve** changes to the BOA Rules of Procedure and forward revised rules to City Council for ratification. (Legislative)
- 4. REPORTS**
- 5. ADJOURN**
- 6. WORK SESSION:** Municipal Code Changes

WOODLAND PARK BOARD OF ADJUSTMENT

MEETING MINUTES – September 20, 2021

City of Woodland Park Council Chambers, 220 W. South Avenue, Woodland Park, CO and by Zoom
Due to the COVID-19 pandemic, this meeting was a hybrid in-person and virtual electronic meeting. A Zoom link was posted on the front-page of the City website. Public input in the form of written comment submitted in advance of the meeting was encouraged and accommodation for public comment in real time at the meeting was made.

1. ORDER AND ROLL CALL. Order was called at 6:36 p.m. with attendance as follows:

Present Chairman Lou Ramon (Zoom)
Present Vice Chairman Jim Rumsey
Absent (excused) Regular Member Dean Nelson
Present Regular Member Valerie Lundy
Present Regular Member Nick Abercrombie
Absent (unexcused) Alternate Member Christina Chapman
Staff Present City Planner/BOA Secretary Lor Pellegrino, AICP
Guests Present Councilor Catherine Nakai, Applicants Mark McNab/Melissa Couch

All recited the Pledge of Allegiance.

2. APPROVE MINUTES. The August 16, 2021 minutes were unanimously approved as presented.

3. REQUESTS / PUBLIC HEARINGS.

A. VAR2021-06 McNab Height Variance: A request by Mark McNab (Applicant & Property Owner) for a 3.5-foot height variance (from 20 to 25 feet) for an accessory building on Lot 2, Trout Creek Subdivision (4961 Trout Creek Road) in the Sturman Planned Unit Development (PUD) zone. (QJ)

Vice-Chairman Rumsey opened the item. City Planner Pellegrino presented the staff report citing other special circumstances, namely the Mountain Area Land Trust (MALT) conservation easement and the remoteness of the site, and recommended approval of a 5 foot height variance.

The applicant (Mark McNab) spoke stating that MALT supported the variance request from 20 to 25 feet (MALT allows for a 30 foot high barn); that the extra height is needed to store materials and vehicles inside. He stated that the barn exterior will match the stone and stucco finishes of the house and that the entire site is in the Trout Creek valley which naturally mitigates visual impact.

Vice-Chairman Rumsey opened the public comment portion of the public hearing and seeing no one wishing to speak in-person or via Zoom, closed the public comment portion of the hearing.

Board Member Abercrombie asked about the Sturman PUD zone district. Mr. McNab stated that he may pursue a rezoning of the 80 acres from PUD to Agricultural (AG) especially since the entire Master Plan for the Sturman PUD is being revised. Chairman Ramon asked about the need for the height increase. Mr. McNab stated that the RV is high; that the windows are necessary to bring natural light into the barn; and, that MALT does not permit outside storage.

MOVED BY RAMON, AND SECONDED BY ABERCROMBIE THAT THE BOARD GRANT: a 5 foot variance to the Sturman PUD height limitation (from 20 feet to 25 feet) for the proposed accessory building (barn) on Lot 2, Trout Creek Subdivision (4961 CR25/Trout Creek Road) based on the findings contained in the staff report and testimony presented at the public hearing subject to the following conditions:

1. This variance applies only to the accessory building as shown in the application VAR #2021-06.

YES: Ramon, Rumsey, Lundy, Abercrombie / NO: None

Motion PASSED

4. REPORTS

- A. While no cases have been submitted for the October meeting, the Chairman may call a work session to complete discussion on changes to the rules and the Municipal Code.

- B. As this is the last meeting for City Planner Pellegrino, the BOA members all wished her well and expressed their thanks for her outstanding support to the Board and to the City.
5. **ADJOURNMENT.** Chairman Ramon adjourned the regular meeting at 7:20 p.m. The next meeting is October 18, 2021.
6. **WORK SESSION.** Chairman Ramon called the work session to order at 7:36 p.m. The Board agreed that the guidelines as presented should be posted on the BOA page of the City website. The Board discussed proposed changes to the Rules, including suggestions by the City Attorney. Board Member Abercrombie will forward some suggested wording regarding public comment and Chairman Ramon will revise the draft rules based on comments made at this work session and will prepare them for consideration by City Council at the next available opportunity. The Board then discussed proposed changes to the Municipal Code. Code changes as proposed will be forwarded to Planning Director Riley for consideration with the code unification being conducted by consultant Logan Simpson. If the BOA recommended codes changes are not incorporated into the Logan Simpson changes, the BOA may pursue independent changes in the future. The work session adjourned at 8:56 p.m.

Approved by: _____
Lou Ramon, Chairman *Date*

RULES OF PROCEDURE
BOARD OF ADJUSTMENT

In compliance Section 18.51.090, of the City of Woodland Park Municipal Code, Zoning Ordinance, the Board of Adjustment may adopt rules of procedure consistent with applicable ordinance and chapter provisions; the following rules of procedure are hereby adopted by the City of Woodland Park Board of Adjustment and City Council.

SECTION 1.0 ESTABLISHMENT AND MEMBERSHIP

The Board of Adjustment was established by the adoption of the City of Woodland Park Municipal Code, Zoning Ordinance on December 15, 1969.

- 1.1 **Membership.** [Ref Municipal Code, Chapter 18.51.10 \(add hot link\)](#) Members of the Board shall be residents of the City [of Woodland Park](#) and shall have resided within the City for at least one year prior to his or her appointment.
- 1.2 **Terms.** [Ref Municipal Code, Chapter 18.51.10 \(add hot link\)](#)
- 1.3 **Alternate Members.** [Ref Municipal Code, Chapter 18.51.20 \(add hot link\)](#)
- 1.4 **Compensation.** [Ref Municipal Code, Chapter 18.51.30 \(add hot link\)](#)
- 1.5 **Removal and Vacancy.** [Ref Municipal Code, Chapter 18.51.40 \(add hot link\)](#)

Deleted: The Board shall consist of five regular members and at least two alternate members appointed by the City Council. No member of the Board shall be a member of any other City board, commission or City Council nor an employee of the City.

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LEGAL suggested keeping this duplication to aid the public in being able to see the "big" picture easily in one place since the RoP are on the Board's home page. (By legal precedent, the Code stands above the RoP if the verbiage should ever get out of sync.)

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Deleted: Duplicates verbiage in Code 18.51.010

LEGAL suggested keeping this duplication (after updating it to reflect the requested change in Code from 3 to 4 year term) to aid the public in being able to see the "big" picture easily in one place since the RoP are on the Board's home page. (By legal precedent, the Code stands above the RoP if the verbiage should ever get out of sync.)

Deleted: Members of the Board shall be appointed for three year, or incomplete terms.

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Deleted: Duplicates verbiage in Code 18.51.020

LEGAL suggested keeping this duplication to aid the public in being able to see the "big" picture easily in one place since the RoP are on the Board's home page. (By legal precedent, the Code stands above the RoP if the verbiage should ever get out of sync.)

Deleted: Alternate members shall meet the membership and term qualifications as stated above. In the absence of a regular member, the Chairman of the Board shall designate at the commencement of the meeting or hearing an alternate member to serve as, and fulfill the responsibility of, the regular member during his absence. Once so designated the alternate member shall not be replaced by a returning member other than at the commencement of an individual item

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LEGAL suggested keeping this duplication to aid the public in being able to see the "big" picture easily in one place since the RoP are on the Board's home page. (By legal precedent, the Code stands above the RoP if the verbiage should ever get out of sync.)

Deleted: All members and alternate members of the Board shall serve without compensation.

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Deleted: A regular member or alternate member of the Board, once qualified, shall be removed during his term of office [for just cause](#) and upon two-thirds majority vote of the City Council. Unexcused

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SECTION 2. 0 OFFICERS

The Board of Adjustment shall select from its membership two officers: A Chairman and Vice Chairman.

2.1 **Selection.** At the first meeting of each calendar year, the Board will select its officers from its regular membership. All officers are eligible for reelection

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2.2 **Tenure.** The Chairman and Vice Chairman shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.

2.3 **Duties.** The Chairman shall preside at all meetings and hearings of the Board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The Vice Chairman shall assume the duties of the Chairman in the absence of the Chairman.

2.4 **Secretary to the Board**

A. **For all Board actions except during the hearing of an Appeal**

- As the official designee of the City Clerk, the Secretary will be the City Planner or the City Planner's representative. The Secretary shall conduct all official correspondence subject to these rules at the direction of the Board, shall send out all notices required, keep the minutes of the Board's proceedings, assist in keeping time limits on presentations and speakers, and keep a file on each case which comes before the Board. For applications, the Secretary may issue the proper forms; ensure that information, maps and plats are compiled and ready for Board's review; cause vicinity property owners and other interested parties to be notified by mail of the time and place of hearings; and any other duties as determined by the Board.

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General comment: This and other sections of the RoP would be easier to read and understand if long (run on) sentences were replaced by bullitized short sentences.

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B. **During Appeal Hearings only**

- In order to minimize perception of conflicts of interest, the official designee of the City Clerk during the appeal hearing itself will not be from the City Planner's Office. The duties of the secretary will be limited to taking the minutes of the meeting, assisting in keeping time limits on presentations and speakers and general conduct of the meeting.

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LEGAL comments that, this explanation or rationale doesn't belong in the RoP, but should be included in the "Whereas" statement in the Ordinance that would be proposed to Council to best document there reasoning behind the proposed change.

Legal also suggested merging these two sections into one.

SECTION 3. 0 MEETINGS

The following rules shall apply to the scheduling and the conducting of Board of Adjustment meetings.

3.1 Regular Meetings. Regular meetings shall be held the - third Monday of each month when requests are submitted which require Board action, or at the call of the Chairman.

3.2 Special Meetings. Special meetings may be called by the Chairman, or at the request of three members of the Board, or at the request of the City Planner.

3.3 Notice of Meetings. Notice of meetings shall be given by the secretary to the members of the Board at least six days prior to meetings and shall state the purpose, time, and place of the meeting.

3.4 Quorum. [Ref Municipal Code, Chapter 18.51.50 \(add hot link\)](#)

3.5 Public. All meetings, public hearings, records, and accounts shall be open to the public.

- A. Public Persons addressing the Board will direct their remarks to the entire Board and shall exercise proper respect and decorum. Any person (or persons) disrupting a Board meeting will be given one verbal warning and then will be asked by the Chairman or Facilitator to cease the disruptive behavior. In the event of any disturbance or disorderly conduct the Chairman or Facilitator will have the power to order any individual or group of individuals to be cleared or removed from the meeting and will have authority to appoint a member of the Police Department as a temporary sergeant at arms for the purpose of preserving order in the physical meeting room.
- B. The Board will only allow public comment related to areas over which the Board has jurisdiction and will politely halt any public discussion related to subjects over which the Board has no authority.
- C. The Board will allow time and order to be yielded to other speakers. In order to maintain an efficient meeting flow, the Chairman may limit the total amount of time any individual speaker may speak to 5 minutes and limit the total time for public comment. If the Chairman chooses to establish these time limitations for public discussion, they will be included in the posted meeting agenda and he/she must also inform all affected parties at the start of the appeal hearing.

3.6 Presenter Discussion. The Chairman may limit the scheduled time allocated for Variance Requestors, Appellants, and/or City presentations to 20 minutes each. If the Chairman chooses to establish these time limitations for presenter discussion, they will be included in the posted meeting agenda and he/she must also inform all affected parties at the start of the appeal hearing

3.7 Order of Business. The Secretary shall prepare an agenda for each meeting and send it to each Board member as part of the notification process. The order of business may be as follows:

Deleted: **Annual**
Deleted: **Meeting.** The annual meeting shall be held at the first regular meeting of the year.¶

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LEGAL questioned why we wanted to say this, but agreed there were no issues in keeping it here.

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LEGAL feels this explanation could go in the WhereAs statements of the ordinance.

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LEGAL questioned why we wanted to add the detail of 5 minutes (vs leaving it open ended)

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LEGAL doesn't think we need the word "these"

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- A.) CALL TO ORDER AND ROLL CALL
- B.) PLEDGE OF ALLEGIANCE
- C.) APPROVAL OF THE MINUTES OF PREVIOUS MEETING
- C.) REQUESTS/PUBLIC HEARINGS
- D.) REPORTS
- E) ADJOURNMENT

3.8 **Voting.** Voting will be by roll call and will be recorded by yeas, nays, abstention, or absence. All members of the Board present, including the Chairman, are required to cast a vote for each motion. The minutes of the proceeding shall indicate the vote of each member on every matter acted upon, and shall indicate either the member's yea, nay, abstention or absence. In accordance with section 3.10 a member shall abstain if said member has declared a conflict of interest. The concurring vote of four (4) members shall be necessary on all matters upon which the Board is required to offer a decision under the provisions of the Zoning Title.

3.9 **Conflict of Interest.** Any member of the Board who has a direct or indirect interest, other than the common public interest, in any property or in the decision relating to such property, which shall be the subject matter of, or affected by, a decision of the Board, shall notify the Chairman in advance or any discussion of the agenda item. He/she shall be disqualified from participating in the discussion, decision, or proceedings of the Board in connection therewith. However, the member may participate as a member of the public. An alternate member shall be appointed by the Chairman of the Board of Adjustment to serve in place of that regular member having a conflict of interest, for only the purpose and time of resolving the question in which the conflict of interest for that regular member exists.

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this change is to enhance readability only. Intent is not changed.

3.10 **Unfinished Business.** Where all applications cannot be disposed of on the day set, due to length of meeting or extenuating circumstances, the Board may adjourn to a time and place certain or until the next regular or special meeting, as the Board may decide.

3.11 **Board Action.** The Board may not vote on an application until all fees have been paid, all information requested of the applicant has been supplied, and a public hearing has been conducted.

3.12 Communications.

- A. In Public Meetings: Board members shall not communicate using non-public media during a meeting. Board members shall not communicate in any electronic format with another Board member during a meeting.
- B. Outside of Public Meetings: Board Members shall not engage in ex-parte communications.

3.13 Executive Session. With proper justification (per City Code and procedures), any Board member may request an executive session and present a motion to recess the Board meeting for an Executive Session. Upon a second to that motion and approval by a simple majority of the Board, the Chairman shall recess the meeting and relocate for the Executive Session. Board members shall keep confidential all written material and verbal information provided to them during executive session. The intentional

dissemination of confidential information received in executive session, whether written or oral, shall constitute misconduct of office Board Members shall direct any person seeking disclosure of documents to City Staff for processing pursuant to the requirement of the Colorado Open Records Act.

3.14 Confidentiality. Board members shall keep confidential all information and written material provided to Board members when such information is exempt from disclosure under law.

SECTION 4.0 POWERS AND DUTIES.

The Board of Adjustment shall have the following powers and duties.

4.1 **Powers.** The Board shall have the powers granted by the Municipal Code as authorized by CRS 31-23-307, et. seq., and City of Woodland Park Municipal Code, Zoning Ordinance Section 18.51.140.

4.2 **Duties.** The Board shall have the following duties in duly exercising their powers.

A. **Appeals.**

- 1.) **Review.** The board shall review the application for an appeal, all papers constituting the record of the appeal, the ruling or order from which the appeal is taken, and the oral and written evidence presented to the Board at the public hearing.
- 2.) **Render Decisions.** The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed. Only after reversing the order, requirement, decision or determination may the Board modify the whole or those parts which were reversed. They shall make such decisions, or determinations as ought to be made, and to that end, shall have all of the powers of the administrative officer from whom the appeal is taken.
- 3.) **Determination of Findings.** Upon rendering a decision for an appeal, the Board shall state what information was considered pertaining to the appeal and what information was applicable to justify the decision.

4.) **Effective Date of Decisions.** Decisions rendered by the Board shall be effective immediately upon completion of the hearing associated with the appeal in question.

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The current wording does not make it clear if a decision, ruling or order must first be affirmed or disapproved prior to being modified by the Board. This proposed change provides that clarification.

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LEGAL suggested using verbiage "or after reversing wholly or partly" in place of this sentence.

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LEGAL didn't feel this was necessary, but saw no issues with including it

B. **Variances**

- 1.) **Review.** The Board shall review the application for a variance, a site plan of the proposed development, planning department report, other applicable information, and the oral and written evidence presented to the Board at the public hearing.
- 2.) **Render Decision.** The Board may vary or modify the application of the City Municipal Code, Zoning Ordinance provisions, within limitations found in the Municipal Code, Zoning

Ordinance, where there are practical difficulties or unnecessary hardships which exist due to a strict application of the regulation provisions. The Board shall evaluate requests for variances by using the variance criteria found in CRS 31-23-307. et. seq., and the City of Woodland Park Municipal Code, Zoning Ordinance, Section 18.60.010. In granting a variance, the Board may prescribe appropriate conditions.

- 3.) **Determination of Findings.** Upon rendering a decision for a variance, the Board shall state what information was considered pertaining to the variance and what information was applicable to justify the decision.

- 4.) **Effective Date of Decisions.** Decisions rendered by the Board shall be effective immediately upon completion of the hearing associated with the variance in question.

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LEGAL didn't feel this was necessary, but saw no issues with including it

SECTION 5.0 PROCEDURES FOR HEARING CASES, RENDERING DECISIONS, DETERMINATION OF FINDINGS, AND THE APPEAL OF BOARD DECISIONS.

The following procedural rules shall apply to all requests coming before the Board of Adjustment:

5.1 **Application Form.** The applicant shall cause to be filed with the City Planner upon application forms provided by the Planning Department. The applicant shall complete the required application forms, providing all information requested by the forms and any additional information deemed necessary by the applicant and/or City Planner.

5.2 **Scheduling of Hearings.**

Generally, an application filed according to the above procedure will be given a case number within five working days from the date filed. Applications will be assigned in the order in which they are received. Cases assigned to the Board less than twenty-five (25) days prior to the regular meeting will automatically be set for hearing on the subsequent regular meeting agenda.

5.3 **Public Hearing Requirements.** The Board of Adjustment shall hold a public hearing on all applications subject to the notice provisions in City Charter and Code.

5.4 **Public Hearing Rules and Order.** The public hearing of the Board of Adjustment shall be held subject to the following general rules and order.

- A.) At the time of the public hearing the applicant may appear in his/her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the Board will proceed to act on or consider the matter on the forms and information provided.
- B.) Generally, the order of the hearing will be as follows:
 - 1. The Chairman presents the order of the hearing, introduces the application and opens the Public Hearing.
 - 2. The applicant states his/her reason and justification for the application.
 - 3. The City Planner reviews the application, regulation provisions, City policy, impacts, correspondence, and may offer his/her concerns, opinions and recommendations.
 - 4. The City Attorney may offer his/her concerns, opinions and recommendation.
 - 5. Any interested person may offer their concerns and opinions.
 - 6. The applicant offers rebuttal and may cross-examine any person making a comment or presentation.
 - 7. The Board entertains discussion and may seek answers to questions raised by the presentation, at any time.
 - 8. The Board reviews the appropriate criteria for the specific application.
 - 9. The Chairman closes the public hearing.

5.5 **Request Deliberated.** The Board shall then deliberate the application. The Board may ask the applicant, City Planner, City Attorney and any other person present for comments and recommendations.

5.6 **Applicant May Withdraw Application.** The applicant or appellant may withdraw his/her application at any time prior to the decision by the Board of Adjustment.

5.7 **Decision Rendered.** The Board shall properly deliberate the application and render a decision. Final decision of any application shall be made in the form of a motion by anyone on the Board of Adjustment hearing the request.

5.8 **Written Determination of Findings.** Every decision of the Board of Adjustment for an application shall result in the formulation of written determination of findings, which specify the exceptional conditions, the practical difficulties, unnecessary hardships, the reasons for granting or denying the application, and any approved conditions and safeguards.

5.9 **Notification of Decision.** Within fifteen (15) days after the hearing and rendering of a decision, the Secretary of the Board shall notify the applicant of its decision by forwarding a copy of written determination of findings to the applicant.

SECTION 6.0 INFORMAL ADVICE.

The Board or individual members will not consider a request, informal or not, for advice on theoretical or actual situations which potentially may later come before the Board as an application for an appeal or a variance.

SECTION 7.0 AMENDMENTS.

A majority vote of all the members of the Board shall be necessary to amend these supplemental rules of procedure. Such proposed amendments will be presented in writing at any regular meeting of the Board of Adjustment.

These Rules of Procedure may be amended by majority vote of approval of the Board of Adjustment, followed by majority vote of approval of the City Council.

In Witness Whereof, the City of Woodland Park Board of Adjustment has Approved, Adopted and Signed these Rules of Procedure of the City of Woodland Park Board of Adjustment Upon the Day, Month and Year Specified Below. (The original Rules of Procedure were adopted November 10, 1988).

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Rationale: Currently there is confusion as what is meant by 15 days. In the extreme, there may be events such as holidays, emergency shut downs and etc that can impact the ability to formally inform the applicant. Working days are defined in the the Code (18.06.587) as "Working days" means days exclusive of Saturday, Sunday, and legal holidays during which weather or soil conditions permit land-disturbing activity to be undertaken. (Ord. 709-1997 § 3(part)). With this clarification 11 working days is nominally equivalent to the originally stated 15 (calendar) days.

Deleted: 5.10 Rehearing of Application. A rehearing of any decision of the Board may be made if the following : The motion to reconsider is made by a member of the Board and carried by not less than four affirmative votes, new evidence is submitted which could not reasonably have been presented at the original meeting, and the case is put on the agenda for rehearing at the next Board meeting.

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Chapter 18.06 - Definitions

Section:

18.06.587 - "Working days" means days exclusive of Saturday, Sunday, and legal holidays during which weather or soil conditions permit land-disturbing activity to be undertaken. (Ord. 709-1997 § 3(part)) or, for administrative purposes, means days exclusive of Saturday, Sunday and legal holidays.

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Chapter 18.51 - BOARD OF ADJUSTMENT

Sections:

18.51.010 - Creation - Appointment.

In compliance with Article V of the Charter, a board of adjustment is established. The board of adjustment shall consist of members appointed by city council. Members of the board shall be appointed for a four-year term, except initial terms may be for a lesser number of years to achieve overlapping terms. No member of the board of adjustment shall be a member of any other city board, commission, or city council. (Ord. 314-1984 § 2, 1984) No Board Member may serve more than two consecutive terms, Partial terms or terms that commenced prior to April 7, 2020 shall not count towards this term limitation.

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Increasing BOA terms to four years will be consistent with City Council, Planning Commission and other boards, commissions and panels where experience and familiarity with processes, procedures and codes is important (high skill boards)

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18.51.020 - Alternate Members.

At least two alternate members shall be appointed to the board in the manner, for the term, and with the qualifications, described in Section 18.51.010. In the absence of a member, the chairman of the board shall designate at the commencement of the meeting an alternate member to serve as, and fulfill the responsibility of, the member during his absence. Once so designated the alternate member shall not be replaced by a returning member other than at the

commencement of an individual item. (Ord. 314-1984 § 3, 1984) [No Board Member may serve more than two consecutive terms, Partial terms or terms that commenced prior to April 7, 2020 shall not count towards this term limitation.](#)

18.51.030 - Compensation.

All members and alternate members of the board shall serve without compensation. (Ord. 12-1973 § 2(part), 1973; Ord. 46-1969 § 801.2, 1969)

18.51.040 - Removal and vacancy.

A member or alternate member of the board, once qualified, shall be removed during his term of office for just cause and upon two-thirds majority vote of the city council. Unexcused absence by regular members from three consecutive meetings shall be deemed just cause. In the event of the death, resignation, or removal of any member or alternate member before the expiration of his term, a successor shall be appointed in the manner described in Section 18.51.010 for the unexpired portion of his term. (Ord. 314-1984 § 4, 1984)

Deleted: Beginning April 7, 2020, no Board Member may serve more than two consecutive terms, Partial terms or terms that commenced prior to April 7, 2020 shall not count towards this term limitation....

18.51.050 - Chairman — Quorum

The board shall annually elect its own chairman at the first meeting on or after January 1st. The chairman, or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of four members shall be necessary to constitute a quorum. Unless otherwise provided for in this chapter, the concurring vote of three members shall be necessary on all matters upon which the board is required to pass under the provisions of this title. Any member refusing to vote, except when excused by unanimous consent of the remaining members present, shall be considered delinquent in his duties and an affirmative vote shall be cast and recorded in his name. (Ord. 314-1984 § 5, 1984)

18.51.060 - Order reversal or Variance of provisions.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation of this title. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 802.1(b), 1969)

18.51.070 - Other departments.

The board shall have the power to call on the city manager and city attorney for assistance in the performance of its duties, and it shall be the duty of such officer to render assistance as may be reasonably required. (Ord. 314-1984 § 6, 1984)
(Ord. No. 1356, § 1, 11-21-2019)

18.51.080 - Secretary to the Board.

The city clerk, or official designee, shall serve as secretary to the board. In the absence of the secretary, the chairman of the board may appoint one of the members of the board to act as secretary pro-tem for the meeting. The secretary of the board shall keep minutes of its proceedings, showing the vote of each member upon each question. If a member is absent or fails to vote, the minutes shall indicate such fact. During a meeting hearing an appeal, the City clerk or an official designee who is not a member of the Planning Department shall keep the minutes of the proceedings. The secretary of the board shall keep records of the board's meetings, assist in monitoring time limits on presentations and speakers, and all other official actions, which shall be on file in the office of the city clerk as a public record. (Ord. 314-1984 § 7, 1984)

Commented [MOU2]: Defends against appearance of Conflict of interest during an appeal when a Planning department Order is being appealed. (This issue was raised in an appeal case in 2019 and is easily avoided by the proposed change.) Other secretarial duties, outside of taking minutes and keeping time during a meeting are still performed by "normally" appointed secretary per ROP)

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18.51.090 - Rules of procedure adoption.

The board may adopt rules of procedure consistent with applicable ordinances and Charter provisions. (Ord. 314-1984 § 8, 1984)

18.51.100 - Conflict of interest.

Any member of the board who has a direct or indirect interest, other than the common public interest, in any property or in the decision relating to such property, which shall be the subject matter of, or affected by, a decision of the board, shall notify the chairman in advance of any discussion of the agenda item, and shall be disqualified from participating in the discussion, decision, or proceedings of the board in connection therewith. An alternate member shall be appointed by the chairman of the board of adjustment to serve in place of that regular member having a conflict of interest, for only the purpose and time of resolving the question in which the conflict of interest for that regular member exists. (Ord. 314-1984 § 9, 1984)

W18.51.110 - Public hearing--Required when.

Before the board shall hear and decide an appeal or a variance, it shall hold a public hearing. At the hearing, any party may appear in person or by agent or by attorney. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 802.4(a), 1969)
(Ord. No. 1356, § 1, 11-21-2019)

18.51.120 - Public hearing—Notice—Contents

Notice of the public hearing shall be sent by either electronic or paper means to the adjacent property owners and any organization (including Home Owners Associations and Architectural Committees) responsible for covenants affecting the property in question at least ten

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Per 2010 Comp Plan Land Use and Growth objective 1.2 and Action 1.2.1 and Housing Objective 1.3

working days prior to public hearing for board of adjustment. A sign shall be posted on the property in accordance with Section 18.72.060. Notice of a public hearing shall be given by publication in the official city newspaper at least seven days prior to the hearing. The notice shall contain:

- A. Legal description of the property and its street address or approximate location;
- B. Present zoning classification of the property and the nature of the variance requested;
- C. Date, time and place of hearing. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 802.2(b), 1969)
(Ord. No. 1170-2012, § 10, 1-3-2013)

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Public has commented that 10 days is insufficient time to adjust schedules and commitments to present opinions to BoA.

Operational Guidelines will be expanded to say that signage will be made available to the Applicant to put out on the first of the month in which the hearing is scheduled (This is when the meeting notice has to be given to the Courier newspaper to be printed 7 to 10 days before the meeting. It should also be noted that currently, it is the responsibility of the applicant to place the signs.

18.51.130 - Exercise of powers.

In exercising its powers, the board may, in conformity with the provisions of this chapter and pertinent statutes, reverse or affirm, wholly or partly, or it may modify the order, requirement, decision, or determination appealed from, and shall make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The board shall decide appeals and applications within 33 working days after submission of the written appeal or request to the administrative officer. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 802.3, 1969)

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Current code is no clear as to requirements to allow modification of order - this was identified during 2019 appeal

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18.51.140 - Powers and duties.

The board of adjustment shall have the following powers and duties:

- A. To hear and decide appeals, subject to Chapter 18.54;
- B. To authorize variances from the terms of this title subject to Chapter 18.60;
- C. Such other powers and duties as may be provided by statute or by this title. (Ord. 589-1993 § 5, 1993; Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 803, 1969)

Chapter 18.54 - APPEALS

Sections:

18.54.010 - Power to hear.

The board of adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this title. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 804.1, 1969)

18.54.020 - Filing Procedure

Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer in administering this title. Such appeal shall be filed within eight working days after the date of the decision by filing with the administrative officer and with the board a written notice of appeal specifying the grounds of the appeal, identifying the specific error or errors that were made, and by paying a filing fee, as provided in Chapter 18.63, at the time the notice is filed. The administrative officer shall forthwith transmit to the board certified copies of all the papers constituting the record of the matter, together with a copy of the ruling or order from which such appeal is taken. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 804.2, 1969)

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18.54.030 - Action

Action on appeals shall be as provided in Sections 18.51.120 through 18.51.140. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 804.3, 1969)

18.54.040 - Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay, in his opinion, would cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 804.4, 1969)

18.54.050 - Appeals from board decision

An appeal from an action, decision, ruling, judgment, or order of the board of adjustment may be made by any person or persons, firm or corporation, jointly or severally, who have been aggrieved thereby, or by any taxpayer, or any officer, department, board or bureau of government to the District Court, as provided for by Colorado Statutes. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 807, 1969)

Chapter 18.72 - Administration and permit issuance

18.72.060 - Sign posting

The city manager shall cause appropriate signs, a minimum of eighteen inches by twenty-four inches in size, and bearing the legend specified by his office, to be posted as follows:

A. An area for which a change in zoning has been requested by an applicant, or initiated by the planning commission, shall have signs declaring the proposed zoning change posted along the street frontage or nearest accessible property line or lines; one sign for each three hundred feet of property line or fraction thereof. Signs shall be

Commented [MOU7]: Consider the following: **Notifications of pending Variances:** In the interest of assuring affected public and land owners are made aware of variance request that could affect them or their neighborhood, the Planning Department will review guidelines for sending notifications of pending Variance requests to determine if there are any physical characteristics associated with the area around the property associated with the variance that should warrant expanding in the 150' radius around the property line that normally defines the limit of property owners to be notified. Such features as public or city lands, detention ponds, waterways, golf courses, parks and etc. will be considered to justify expanded areas to be notified.

posted in a manner most easily observed by the traveling public, as determined by the city manager or his duly appointed representative, and shall be posted for ten days immediately prior to the public hearing.

B. An area proposed for annexation and subsequent zoning shall have signs posted in the manner prescribed by subsection A of this section.

C. An area for which a variance or conditional use permit is requested shall have signs posted in the manner prescribed by subsection A of this section, but shall be posted for a minimum of 18 calendar days immediately prior to the public hearing.

D. Failure of the applicant for zoning, change in zoning, variance or conditional use permit, to pay appropriate fees for signing or to comply with this section shall automatically invalidate his application. (Ord. 12-1973 § 2(part), 1973: Ord. 46-1969 § 701.6, 1969)

(Ord. No. 1170-2012, § 14, 1-3-2013)

General recommended actions (for all Code and RoP sections):

- Provide a common set of definitions
- Change “days” to either specify “working days”
- Reformat long, run-on sentences throughout to bulleted or numbered short sentences to enhance readability and understandability.
 - Remember that the Code and RoP must serve two sets of customers: 1) those who have to defend Code and RoP related actions legally and in the courtroom and (most importantly) 2) those ordinary citizens who have to live within the Code and RoP – who do not have a “Captain ‘Law School’ magic decoder ring.
- Assure that, When an ordinance which creates or amends any provision related to the Code from which a variance might be requested, the Board it should provide sufficient contextual information to fully explain the purpose and scope of the zoning ordinance. The preparer should coordinate with the City Attorney to ensure such contextual information is thoroughly

Commented [MOU8]: Signage related to pending Variances:

1)The planning department will inform the individual requesting the variance of where signage is to be posted to conform with City Requirements at the time they provide the signs to be posted. This information will be portrayed to the requestor in the form of a map on which recommended sign locations are clearly indicated.

10 days before the schedule Board Meeting, the Planning Department will survey the locations where the signage is posted and will include the results of their audit in their report to the BOA. The BOA may, at their option, determine that if signs have not been placed in the general locations identified by the Planning Department, that the public has not had sufficient time to respond to the notifications and postpone the hearing of the request until the next regularly scheduled Board Meeting.

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Per Operational Guidelines, the signs shall be made available to the Applicant at the same time as the notice is submitted to the Courier Newspaper for publication 10 days prior to the scheduled hearing. Is this sufficient, or should the Code be changed?

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documented in the whereas clauses. The purpose of this best practice is to ensure that implementation and any subsequent requests for variances are considered in light of the original purpose and scope of the ordinance.

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BoA Team Operational Guidelines

2021 TEAM OPERATIONAL GUIDELINES

INTRODUCTION

1. These Operational Guidelines (the Guidelines) document the informal approach to operating as a Board that Chairman Lou Ramon is implementing and take effect in August, 2021.
2. The Guidelines are non-binding and are published on the Board of Adjustment website for informational purposes only.
3. The Guidelines have been accepted by each current Board member and must be agreed to by each new candidate for Board membership.
4. The Guidelines will be reviewed and accepted by each Board member at least once, yearly, preferably during the annual meeting.
5. The Guidelines may be amended whenever any Board member proposes a change, addition or deletion in an open meeting or working session by unanimous approval of all Board members.
6. The Guidelines will be reviewed by the City Attorney to assure they do not conflict with or duplicate applicable requirements.
7. The Guidelines do not supersede the provisions of the Home Rule Charter of the City of Woodland Park, Colorado (the Charter), the Woodland Park Municipal Code (the Code) and the Board of Adjustment Rules of Procedure (the Rules) but are only intended to supplement the provisions of the Charter, the Code, and the Rules.

BoA Team Operational Guidelines

OPERATIONS

1. TIME

1.1. START THE MEETING ON TIME

- 1.1.1. Board members should strive to arrive with enough time allowed to start the meeting at the published time

1.2. LIMIT MEETING TIME

- 1.2.1. The Board will adjourn any meeting at 9:00 pm and reconvene at the earliest opportunity to assure the Board is not fatigued and is able to listen to, comprehend and assess the information presented, unless a motion is made and approved to continue the meeting for an additional 30 minutes.
- 1.2.2. At the end of a 30-minute extension, the Board will adjourn unless a motion is made and approved for another 30 minute extension.
- 1.2.3. This process of motions and 30 minute extensions may be repeated.

2. FACILITATOR

- 2.1. A facilitator may be appointed by the Chairman to allow the Chairman and Board members to focus on for variances or appeals requests.
- 2.2. The facilitator must not have any direct or indirect associated with the variance or appeal being considered.

3. PRESENTER DISCUSSION

- 3.1. Limit scheduled time allocated for Variance requestors, Appellate, and/or City presentations to 20 minutes each and rebuttal time limited to 10 minutes.

4. PUBLIC COMMENT

- 4.1. Public Persons addressing the Board will direct their remarks to the entire Board and shall exercise proper respect and decorum. Any person (or persons) disrupting a Board meeting will be given one verbal warning and then will be asked by the Chairman or Facilitator to cease the disruptive behavior. In the event of any disturbance or disorderly conduct the Chairman or Facilitator will have the power to order any individual or group of individuals to be cleared or removed from the meeting and will have authority to appoint a member of the Police Department, if

BoA Team Operational Guidelines

necessary, as a temporary sergeant at arms for the purpose of preserving order.

- 4.2. The Board will only allow public comment related to areas over which the Board has jurisdiction and will politely halt any public discussion related to subjects over which the Board has no authority.
- 4.3. Each person speaking during Public Comment will be allocated 5 minutes to speak
 - 4.3.1.1. Allow time and order to be yielded to other speakers BUT limit any one speaker to 20 minutes of total time.
 - 4.3.1.2. Limit public comment to a total of 60 minutes.

5. TYPICAL BOARD OF ADJUSTMENT MEETING AGENDA (Provided for information only)

- Call to order (normally at 6:30 pm) - Chairman
 - Roll Call - Board Secretary
 - Pledge of Allegiance - All
 - Opening Comments - including "Safety Moment" (optional) - Chairman
 - Reading and approval of Minutes
 - Variance Request #1
 - If applicable, and at the request of the Chairman, a Facilitator takes over the conduct of the variance hearing
 - Reading of request
 - Applicant presentation - 20 minutes*
 - Staff presentation - 20 minutes*
 - Public Comment - 60 minutes (total)*
 - Individual comments - 5 minutes ea*
 - Board questions
 - Board deliberation
 - Board Decision Motion
 - Variance Request #2
 - Same as Variance Request #1
 - Reports - Board Secretary and/or Board members - 10 minutes
 - Adjourn
- *Note: Presentation time limits will be identified in the agenda and announced by the Chairman at the beginning of the hearing.

6. COMMUNICATIONS (WITHIN PUBLIC MEETINGS)

- 6.1. Board members shall not make or receive personal, private phone calls or emails while at the in a meeting, except in an

BoA Team Operational Guidelines

emergency.

- 6.2. In Public Meetings: Board members shall not communicate using non-public media during a meeting. Board members shall not communicate in any electronic format with another Board member during a meeting.

7. COMMUNICATIONS (OUTSIDE OF PUBLIC MEETINGS)

- 7.1. Outside of Public Meetings: Board Members shall not engage in ex-parte communications.

It is inappropriate for Board of Adjustment members to contact anyone outside the Board Meetings or each other individually or as a group concerning an application or other matter coming before the Board while the matter is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter and may result in recusal from the proceedings. If you have any concerns, you should contact staff, write a letter or present your concerns at the public meeting so your comments can be made part of the record.

- 7.2. When discussing information, limit verbal, text, email etc. communications to one on one communications outside of a meeting with more than one other Board member shall be directed to the City Planning Department to allow for distribution to all Board members and will, otherwise adhere to the requirement and constraints of the State of Colorado Open Meetings laws. (For further detail Board members should contact the City Attorney.)

8. EXECUTIVE SESSION

- 8.1. With proper justification (per the laws of the State of Colorado), any Board member may make a motion to recess the meeting and go into an executive session. The Board members are encouraged vote in favor of the motion. Following the passing of the motion, the Chairman shall recess the meeting and relocate for the Executive Session. Board members shall keep confidential all written material and verbal information provided to them during executive session.

BoA Team Operational Guidelines

9. CONFIDENTIALITY

- 9.1. Board members will keep confidential all information and written material provided to Board members outside of executive sessions when such information is exempt from disclosure under law.
- 9.2. The intentional dissemination of confidential information received in executive session, whether written or oral, will constitute misconduct of office.

10. VOTING

- 10.1. The concurring vote of four members of the board is necessary to reverse or modify any order, requirement, decision or determination of the administrative official wholly or in part, or to decide in favor of the applicant on any matter upon which it is required to pass under Municipal Code Title 18.

11. SPECIAL CONSIDERATIONS FOR APPEALS

- 11.1. The Board will consider an appeal based on errors that may have been made in the development of the appealed order, requirement, decision or determination
- 11.2. Quorum
 - 11.2.1. When the schedule permits, and with the agreement of the Board, and the Appellant(s). The Board meeting may be adjourned and convened at another time with the desired goal to have a full seated board of 5 members. If, however, schedule constraints or objections from the Board or the Appellant(s) do not permit the convening to a later date, per Code, a quorum of 4 seated Board members is enough.
- 11.3. Board Secretary
 - 11.3.1. The regularly appointed Board secretary (usually from the Planning Department) will inform the appellants and all in attendance at the beginning of the appeal hearing that his/her role as the secretary, is simply to document the proceedings and keep time. Any questions related to Code, Rules of Procedures associated with the Planning Department will be asked of the members of the Department, not the secretary of the Board.

BoA Team Operational Guidelines

12. PUBLIC NOTIFICATION

- 12.1. The Planning Department will provide signage to the Applicant on or about the first of the month in which the hearing is scheduled to inform the community of the Board Meeting

13. DEFINITIONS

- 13.1. Error (rationale for an appeal) - will deal with process, procedure and technical errors primarily addressing in the application of the Municipal Code Title 18. It does not include differences of opinion, likes and dislikes, or items of personal preference.
- 13.2. Working Day - means calendar days exclusive of Saturday, Sunday and legal holidays

14. 2021 PRIORITIES

- 14.1. Improve BOA specific processes
 - 14.1.1. Focus Areas: BOA Rules of Procedure, BOA Operational Guidelines
- 14.2. Regulation & Code Review/Updates
 - 14.2.1. Focus Areas: Appropriate sections of Municipal Code
- 14.3. Inputs to Comprehensive Plan
- 14.4. Training/Improvement
 - 14.4.1. Focus Areas: Citizens Academy, Facilitator Training, Team Effectiveness, Ex Parte Communications

BoA Team Operational Guidelines

Considerations for additions/changes

12. **PUBLIC NOTIFICATION**

12.1 The Planning Department will provide signage to the Applicant on or about the first of the month in which the hearing is scheduled to inform the community of the Board Meeting

12.2 The Planning Department will encourage the Applicant to post the signs at least 15 days before the scheduled hearing

12.3 To provide additional time for public comment and response to USPS mailed notifications, the Planning Department will establish a goal to send notifications as much as 20 days before the scheduled Board of Adjustment hearing date (instead of the 10 days required by the Code).

12.4 To ensure the public has an adequate opportunity to respond positively or negatively to the requested variance, the Board may move to delay the decision on the application up to the maximum of 45 days from the submission of the request as established in the Municipal Code section 18.51.130.